



# City of Marietta Meeting Minutes CITY COUNCIL

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

**William B. Dunaway, Mayor**  
**Annette Paige Lewis, Ward 1**  
**Griffin "Grif" L. Chalfant, Jr., Ward 2**  
**Holly Marie Walquist, Ward 3**  
**Irvan A. "Van" Pearlberg, Ward 4**  
**Rev. Anthony C. Coleman, Ward 5**  
**James W. King, Ward 6**  
**Philip M. Goldstein, Ward 7**

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**Wednesday, August 13, 2008**

**7:00 PM**

**Council Chamber**

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**Presiding:** William B. Dunaway

**Present:** Philip M. Goldstein, Jim King, Rev. Anthony Coleman, Holly Walquist, Grif Chalfant, Annette Lewis and Van Pearlberg

***Also Present:***

*William F. Bruton, City Manager*

*Douglas R. Haynie, City Attorney*

*Stephanie Guy, City Clerk*

**CALL TO ORDER:**

*Mayor William B. Dunaway called the meeting to order at 7:00 p.m.*

**INVOCATION:**

*Council member Holly Walquist introduced Rev. Mark Barber, the associate Pastor of the First Baptist Church, who gave the invocation.*

**PLEDGE OF ALLEGIANCE:**

*Nicholas Foster, Boy Scout for Troop 200 Mt. Paren Church of God, led the Pledge of Allegiance.*

**PRESENTATIONS:**

**20080969 Swearing-in of new police officers**

Swearing-in of police officers in the Marietta Police Department.

Anthony Meyer

**This matter was Oath Administered.**

**PROCLAMATIONS:**

**20080641 National Payroll Week**

Proclamation presented to Ms. Darlene Moses, American Payroll Association, declaring the week of September 1-5, 2008 as National Payroll Week, giving additional support to the efforts of the people who work in Marietta, Georgia and the payroll profession.

**This matter was Presented.**

**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE  
MAYOR, COUNCIL AND/OR CITY MANAGER:**

*Council member Walquist announced that the Marietta Tree Keepers would be planting trees at the Marietta Schools Foundation located at the corner of Wynn Street and Polk Street, Saturday August 16, 2008 beginning at 8:30 a.m.*

*The Marietta Tree Keepers would also be sponsoring a porous pavement seminar August 23, 2008 at City Hall.*

**SCHEDULED APPEARANCES:**

**20081011      SPLOST for schools**

Update by the SPLOST school committee.

*Thomas Algarin, Director of Communications for the Marietta School System, presented a power point presentation regarding the SPLOST (Special Purpose Local Sales Tax).*

**This matter was Presented.**

**CONSENT AGENDA:**

**Consent agenda items are marked by an asterisk (\*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).**

*Mayor Dunaway briefly explained the consent agenda process. The following amendments were made to the consent agenda:*

*-under Minutes: agenda item 20080975 was amended to read, "Motion to approve the July 9, 2008 regular meeting minutes."*

*-under Ordinances: agenda item 20080756 was added to the consent agenda and amended to read, "Motion to approve the rezoning for property located in Land Lot 02900, District 17, Parcel 0850, 2nd Section, Marietta, Cobb County, Georgia and being known as 316 East Dixie Avenue from LI (Light Industrial) to RM-8 (Multi-Family Residential 8 units/acre), with the following stipulations:*

- (1) There shall be an agreement, in writing, between the 2 properties about parking and being able to use the property next door for safe egress.*
- (2) Follow plan as presented for the exterior and property shall be used as a duplex or single family residence only.*
- (3) The Parking and Driveway Agreement shall be recorded with the Cobb County Superior Court within (7) seven days after approval.*
- (4) The construction on the property shall be completed within (9) months after approval.*

- (5) *The elevations submitted and signed by the applicant shall be incorporated as a condition of the rezoning, and shall be conformed to at a minimum in the remodeling of the house.*
- (6) *The floor plan submitted and signed by the applicant shall be incorporated as a condition of the rezoning, and shall be conformed to at a minimum in the remodeling of the house.*
- (7) *The current non-conforming use for the property shall expire on or before September 30, 2008."*

*-under Public Works: agenda item 20081012 should only show Council member Pearlberg opposed.*

*-under Other Business: agenda items 20080991 - 20081009 should only show Council member Pearlberg opposed.*

*Mayor Dunaway opened the public hearing for items on the consent requiring a public hearing. Seeing no one wishing to speak, the public hearing was closed.*

**A motion was made by Council member King, seconded by Council member Lewis, to approve the consent agenda as modified. The motion unanimously carried by the following vote:**

**Vote: 7 - 0 - 0**

**Approved**

*with the following exceptions:*

*Council member Goldstein opposed to agenda items 20080707.*

*Council member Goldstein abstained on agenda items 20080624, 20080926, 20080943, and 20080947.*

*Council member Pearlberg opposed to agenda items 20080972, 20080714, 20081012, 20080991 - 20081009.*

*Council member King opposed to agenda items 20080756, 20080724, 20080948, and 20080954.*

*Council member Chalfant and Lewis opposed to agenda item 20080972.*

## **MINUTES:**

- \* **20080942**      **Special Meeting - July 30, 2008**  
Review and approval of the July 30, 2008, City Council Special Called meeting minutes.  
**This Matter was Approved on the Consent Agenda.**  
**Vote: 7 - 0 - 0**                      **Approved**
- \* **20080975**      **Regular Meeting - July 9, 2008**  
Review and approval of the July 9, 2008 regular meeting minutes.  
**This Matter was Approved on the Consent Agenda.**  
**Vote: 7 - 0 - 0**                      **Approved**

**MAYOR'S APPOINTMENTS:**

**CITY COUNCIL APPOINTMENTS:**

- |   |                 |  |
|---|-----------------|--|
| * | <b>20080174</b> | <p><b>Board of Zoning Appeals Appointment</b></p> <p>Reappointment of James K. Lowman to the Board of Zoning Appeals (Ward 2) for a three year term beginning immediately and expiring on August 13, 2011.</p> <p><b>This Matter was Approved on the Consent Agenda.</b></p> <p><b>Vote: 7 - 0 - 0</b></p> |
|   |                 | <p><b>Approved</b></p>   |

## ORDINANCES:

- |                   |  |
|-------------------|--|
| <p>* 20080624</p> | <p><b>Code Enforcement - 414 Water Oak Way</b></p>   |
| <p>Ord 7208</p>   | <p>An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 414 Water Oak Way.<br/>Listed Owner: Mari Quesada Anibal &amp; Pedro A. Quesada Rosalia O.<br/>Certified mail receipt received 05/16/08 as "not deliverable."<br/>Taxes paid: Yes<br/>PUBLIC HEARING REQUIRED</p> |

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 1** **Approved**  
Abstain: Philip M. Goldstein

- |                          |  |
|--------------------------|--|
| <p><b>* 20080926</b></p> | <p><b>Code Enforcement - 150 Aviation Road</b></p>   |
| <p><i>Ord 7209</i></p>   | <p>An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 150 Aviation Road.<br/>Listed Owner: Ocwen Loan Servicing Bank<br/>Certified mail receipt not received as of 07/29/08.<br/>Taxes paid: Yes<br/><b>PUBLIC HEARING REQUIRED</b></p> |

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 1**  
Abstain: Philip M. Goldstein

- |            |  |
|------------|--|
| * 20080943 | Code Enforcement - 835 Toliver Street  |
| Ord 7211   | An ordinance authorizing the removal of overgrown grass, weeds and obnoxious |

vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 835 Toliver Street.

Listed Owner: Eberardo Lopez

Certified mail receipt not received as of 08/01/08.

Taxes Paid: Yes

**PUBLIC HEARING REQUIRED**

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 1**

**Approved**

Abstain: Philip M. Goldstein

\* **20080947**

**Code Enforcement - 593 Tom Read Drive**

*Ord 7210*

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 593 Tom Read Drive.

Listed Owner: Gonzalez Jose A.

Certified mail receipt not received as of 08/01/08.

Taxes Paid: Yes

**PUBLIC HEARING REQUIRED**

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 1**

**Approved**

Abstain: Philip M. Goldstein

\* **20080960**

**Code Enforcement - 222 Cole Street**

*Ord 7212*

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 222 Cole Street.

Listed Owner: Freeport Title & Guaranty, Inc.

Certified mail receipt not received as of 08/01/08.

Taxes Paid: Yes

**PUBLIC HEARING REQUIRED**

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 1**

**Approved**

Abstain: Philip M. Goldstein

\* **20080756**

**Z2008-09 Connie Tabb 316 E. Dixie Avenue**

*Ord 7213*

Z2008-09 [REZONING] CONNIE TABB request rezoning for property located in Land Lot 02900, District 17, Parcel 0850, 2nd Section, Marietta, Cobb County, Georgia and being known as 316 East Dixie Avenue from LI (Light Industrial) to RM-8 (Multi-Family Residential 8 units/acre). Ward 3.

*Motion to approve the rezoning for property located in Land Lot 02900, District 17, Parcel 0850, 2nd Section, Marietta, Cobb County, Georgia and being known as 316 East Dixie Avenue from LI (Light Industrial) to RM-8 (Multi-Family Residential 8 units/acre), with the following stipulations:*

- (1) There shall be an agreement, in writing, between the 2 properties about parking and being able to use the property next door for safe egress.*
- (2) Follow plan as presented for the exterior and property shall be used as a duplex or single family residence only.*
- (3) The Parking and Driveway Agreement shall be recorded with the Cobb County Superior Court within (7) seven days after approval.*
- (4) The construction on the property shall be completed within (9) months after approval.*
- (5) The elevations submitted and signed by the applicant shall be incorporated as a condition of the rezoning, and shall be conformed to at a minimum in the remodeling of the house.*
- (6) The floor plan submitted and signed by the applicant shall be incorporated as a condition of the rezoning, and shall be conformed to at a minimum in the remodeling of the house.*
- (7) The current non-conforming use for the property shall expire on or before September 30, 2008.*

*The applicant agreed to the stipulations for the record.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: 1 - Jim King

## **RESOLUTIONS:**

- \* **20080970 Denial of a claim**  
Denial of a claim of Aaron Love.

**This Matter was Approved to Deny Claim on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved to Deny Claim**

## **CITY ATTORNEY'S REPORT:**

## **CITY MANAGER'S REPORT:**

## **MAYOR'S REPORT:**

## **COMMITTEE REPORTS:**

### **1. Economic/Community Development: Grif Chalfant, Chairperson**

- \* **20080841 HCV (Section 8) Pro-forma and Annual Plan**

Request approval of the city of Marietta Housing Choice Voucher Program (Section 8) pro-forma and annual plan.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

## **2. Finance/Investment: Annette Lewis, Chairperson**

### **\* 20080724 ITC Conference**

Motion approving the travel training expenses for the National League of Cities Information Technology and Communications (ITC) Committee in Plano, TX.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: 1 - Jim King

## **3. Judicial/Legislative: Philip M. Goldstein, Chairperson**

### **\* 20080861 Comprehensive Development Code, Special Land Use Permits**

CA2008-07 [CODE AMENDMENT] Proposal to amend the Comprehensive Development Code of the City of Marietta relating to Division 708.26 Light Industrial, Paragraph B, Division 708.26 Light Industrial, Paragraph E, Division 708.27 Heavy Industrial, Paragraph B, Division 708.27 Heavy Industrial, Paragraph E, Division 712.01 Special Land Use Permits, and Division 724.02 Definitions of Terms, related to Special Land Use Permits.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

### **20080839 Disclosure of Property Acquisitions**

Motion to approve amending the policy dealing with the purchase of real estate to state the following "For real estate purchases, the city, following discussion in executive session (if held) and the delivery of a signed contract by the seller to the city, shall disclose in the public vote to approve the purchase of the property the price, name of the seller, closing date, the CONTRACT and address of the property. The contract shall be released upon the vote of the Council. Exempted from this policy would be the instance in which the city would be interested in purchasing property at a foreclosure or other bid situations."

**A motion was made by Council member Goldstein, seconded by Council member Chalfant, to approve this matter. The motion carried by the following vote:**

**Vote: 6 - 1 - 0**

**Approved**

Voting Against: Jim King

*Mayor Dunaway vetoed the motion.*

*(The official veto of the amendment by Mayor Dunaway is on file in the City Clerk's Office.)*

**A motion was made by Council member Goldstein, seconded by Council member Chalfant, to override the Mayor's veto.**

*Discussion was held.*

*Mayor Dunaway made the following comment:*

*"I have been told by more than one friend that I should just agree with "and/or to not oppose" this wrong change in city council policy since it will probably pass anyway. These same friends also knew that I would not; I could not, ever agree to something that I know is wrong. These same friends know me and they know that I have never "gone along just to get along."*

*The policy the city has been following is entirely legal under Georgia Law and even according to the Georgia Press Association's own interpretation. The MDJ has labeled this policy as "secret" as if it were a four letter word. No, the confidential procedure is neither illegal, immoral, nor fattening. This policy has saved taxpayer dollars and it can in the future.*

*Some people on council have wanted this change with very good intentions. However, Philip Goldstein and the MDJ have pushed for this change because of desires of control and self-interest that have nothing to do with the "public good." Truly, this is an example that "Politics make strange bedfellows."*

*Our current city policy is permissive, as it should be; it allows the council to decide, on a case by case basis, when to disclose on each proposed property purchase. The council can decide that it will immediately disclose on a vote, or, when it is in the best interest of the city taxpayer and tax dollars, the proposed purchase should not be disclosed until it is completed.*

*As perfect examples of the disastrous effects of this proposed change in policy, the public needs to look no further than the recent unreasonable purchase prices for sidewalks and, as an opposite example, the wonderful redevelopment project of Manget by Hedgewood Properties.*

*If this policy had been in effect 4years ago, the land assembly that was necessary to start the Manget project could not have been accomplished. Confidentiality was necessary for this.*

*If this policy had been in effect 4 years ago, Marietta would still have the crime-ridden quad apartments and over 125 sub-standard transient rental units.*

*If this policy had been in effect 4 years ago, Park Street Elementary School would still have the highest number of transient students.*



*If this policy had been in effect 4 years ago, that area of town would still have the highest crime rate of any other part of town. Annette Lewis and Betty Hunter would still be hearing sirens every night.*

*If this policy had been in effect 4 years ago, the city would not have the million dollar improvement for Henry Park and many other infrastructure improvements.*

*If this new policy goes into effect without any provision for exceptions to it, Marietta will never again have the opportunity for similar land assemblies that will add to our much-needed redevelopment.*

*No, I cannot "go along to get along." I have never been able to remain silent when I know something is wrong. I cannot just stand mute on this occasion either. Never have; never will. No matter what the consequences would be, I have always stood up for what I believe is right. I am doing that tonight and I am sure I will be attacked for this.*

*I do care about the future of redevelopment in Marietta and conserving taxpayer dollars. I do have the courage to stand up for our current policy and I hope the council members will do the same."*

*Discussion was held and comments made by Council.*

**The motion was made by Council member Goldstein, seconded by Council member Chalfant, to override the veto. The motion carried by the following vote:**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: 1 - Jim King

## **20080725 Ethic Committee Recommendation**

Approval of an Ordinance amending Code Section 1-14-4-180, Section 1, Advisory Opinions.

*A motion was made by Council member King, seconded by Council member Chalfant, to approve this matter.*

*Discussion was held. Council member Goldstein submitted the following amendment for consideration:*

*Should the Ethics Committee not call a meeting, meet and render an opinion prior to the time discussion on the matter occurs or a vote is taken on the matter or issue, the elected official may make a written request of the City Attorney for*

*an opinion on the matter and setting forth the facts and circumstances. The City Attorney shall render a ruling if there is or is not a conflict and/or prohibition on the elected official's participation and/or voting. The elected official shall be able to rely upon the City Attorney's ruling. If a complaint is filed against the elected official based upon the elected official's vote or participation on the matter, the Ethics Committee shall dismiss the complaint.*

*The Ethics Committee may review the opinion of the City Attorney. If the Ethics Committee disagrees with the ruling of the City Attorney, future participation or vote by the Elected Official would not have the protection of the City Attorney's Opinion on the stated facts.*

*Further discussion was held.*

*A motion was made by Council member Goldstein, seconded by Council member Lewis, to refer this matter back to the Judicial/Legislative Committee for further review.*

**The motion was made by Council member Goldstein, seconded by Council member Lewis, that this matter be Referred to the JUDICIAL/LEGISLATIVE COMMITTEE. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Referred**

**20080856 Disclosure of Property Acquisitions**

Request by Councilmember Grif Chalfant relative to the disclosure of property acquisitions.

**This matter was Removed.**

**4. Parks, Recreation and Tourism: Holly Walquist, Chairperson**

**5. Personnel/Insurance: Van Pearlberg, Chairperson**

**\* 20080723 Extension of Service Agreement**

Motion to extend the Service Agreement for property/casualty insurances and related coverages with current provider through 8-16-2009.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**\* 20080836 Ordinance Revision - Weapons**

*Ord 7207*

Ordinance revising Section 4-4-20-040 of the City/BLW Personnel Rules and Regulations Regarding Weapons.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0****Approved****6. Public Safety Committee: Anthony Coleman, Chairperson****\* 20080844 Standard Operating Procedures for the Police Department**

Motion to adopt revisions to the Police Department Standard Operating Procedures: A022 Oleoresin Capsicum Spray/Foam; E012 VIP Security; E020 Barricade Incidents; E025 Civil Disturbance; E040 Emergency Callback; P010 Patrol Operations; T031 Career Development; T040 Firearms Qualifications; T050 Training

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0****Approved****7. Public Works Committee: Jim King, Chairperson****\* 20080714 Cobb Paulding Marietta Transportation Planning Committee Recommendations**

Motion to approve the Cobb Paulding Marietta Transportation Planning Committee Recommendations, as follows:

1. Investigate the potential for inter-parcel access along Whitlock Avenue corridor and conversion of existing parcel drives to right-in and right-out access only.
2. Take initiative to explore options with large employers for providing van pool incentives for employees in Acworth, Kennesaw and West Cobb.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0****Approved**

Vote Against: 1 - Van Pearlberg

**\* 20080707 Reynolds Street**

Motion approving changing the speed limit on Reynolds St. to 25 mph.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0****Approved**

Vote Against: 1 - Philip M. Goldstein

**\* 20080829 Maintenance Agreement for Powder Springs Road Multi-Use Trail**

Motion to approve the Maintenance Agreement between City of Marietta and Georgia Department of Transportation (GDOT) for Routine Maintenance of Powder Springs Road Multi-Use Trail.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**\* 20080832 Signs on State Right of Way**

Motion authorizing staff to make a written request to the Georgia Department of Transportation on behalf of City Council to remove advance intersection and advance signal warning signs within the city limits of Marietta that are not identified as "required" by the Manual for Uniform Traffic Control Devices.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**\* 20080834 Request for No Parking Zone along a portion of Carolyn Street**

Motion authorizing Public Works to install signs stating "No parking from here to corner" beginning on the north side of Carolyn Street approximately 120' from the intersection of Wallace Road.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**\* 20080972 Partial property acquisitions**

Motion authorizing partial acquisition of the following properties for the purpose of constructing sidewalks

546 Fort Street	Mary P. Broadnax	\$2000
564 (1706) Fort Street	Harold Adams	\$4200
580 Fort Street.	James Brock, Jr.	\$6400
586 Fort Street	David Leaty	\$0
111 North Fairground St.	James Brock, Jr.	\$7200
226 Whitlock Drive	James & Lenora Cahill	\$1500
240 Whitlock Drive	Mae Bell Connor Annandale	\$300
351 North Woodland	Maxwell F. Hall, Jr.	\$400
600 Saint Anne's Road	Charles Baskin	\$3500
643 Kennesaw Avenue	James & Pellie Manning	\$2300

**This Matter was Approved on the Consent Agenda.**

**Vote: 4 - 3 - 0**

**Approved**

Vote Against: Annette Lewis, Grif Chalfant and Van Pearlberg

**\* 20081012 Property Acquisitions**

Motion authorizing acquisition of the following properties:

Fairground Street Median & Streetscapes - Total Acquisitions		
509/511 Morningside Drive	Rube McMillan	\$155,350

Roswell Street Widening - Olive Street to Fairground - Partial Acquisition  
422 Roswell Street Dorothy Winter \$3000

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: 1 - Van Pearlberg

\* **20081013 Property Acquisitions**

Motion to accept donations of portions of the following properties from Anderson Street Group II, LLC, for the construction of road & streetscape improvements on Roswell Street.

184 Roswell Street  
192 Roswell Street  
199 Roswell Street

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

\* **20080919 Maintenance Agreement for Powder Springs Road Multi-Use Trail and Landscape Median**

Motion to approve the Maintenance Agreement between City of Marietta and Georgia Department of Transportation (GDOT) for Routine Maintenance of Powder Springs Road Multi-Use Trail and Landscaped Median.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**UNSCHEDULED APPEARANCES:**

*Larry Wills, 60 Oakmont Drive, spoke regarding the Cobb Paulding Marietta Transportation Planning Committee Recommendation, which was approved, in part, on the consent agenda.*

**OTHER BUSINESS:**

**20080757 V2008-11 Islamic Circle of North America, Inc. 968 Powder Springs Street**

V2008-11 [SPECIAL LAND USE PERMIT] ISLAMIC CIRCLE OF NORTH AMERICA, INC. request a Special Land Use Permit for property located in Land Lot 00770, 17th District, Parcel 0152, 2nd Section of Cobb County, Marietta, Georgia and being located at 968 Powder Springs Street. Request for a Special Land Use Permit for a Place of Assembly. Ward 2.

*Mayor Dunaway opened the public hearing and City Attorney Douglas Haynie explained the rules of order.*

*Davené D. Walker, attorney for the applicant with Smith, Gambrell & Russell,*

*requested a Special Land Use Permit for property located at 968 Powder Springs Street. Ms. Walker mentioned that the applicant does meet the qualifications for a Special Land Use permit.*

*Speaking in Opposition:*

*Angie Pfeuffer, who resides at 856 Hickory Drive and represents the Hickory Hills Homeowners Association, expressed concern regarding increased noise and increased traffic in the area.*

*Justin O'Dell, who resides at 711 Dunleith Court and represents the Dunleith Homeowners Association, expressed concern about the adverse impact from the business if the permit is granted.*

*Harriet Smith, 864 Hickory Drive, expressed concern regarding the lights and noise from the subject property.*

*Discussion was held by Council regarding the property, expressing concern with issues such as occupancy limits for the Mosque, meeting days/hour, additional parking, possible code violations and current business license.*

*Planning Director Rusty Roth listed the 11 factors to be considered when granting or not granting a Special Land Use Permit.*

*The public hearing was closed.*

*A motion was made by Council member Goldstein, seconded by Council member King, to table this matter until the September 10, 2008 regular City Council meeting, with a public hearing being required.*

*A substitute motion was made to deny the Special Land Use permit.*

**The motion was made by Council member Walquist, seconded by Council member Chalfant, that this matter be Denied. The motion carried by the following vote:**

**Vote: 4 - 3 - 0**

**Denied**

Vote Against: 3 - Jim King, Philip M. Goldstein and Rev. Anthony Coleman  
(See also page 15)

## **20080812 Denial of Sign Permit Application**

Appeal of a denial of a Sign Permit application for Clear Channel Outdoor, Inc. to install LED sign faces on existing sign located at 70 Powers Ferry Road, Marietta, GA.

*Motion to affirm the decision of the Planning and Zoning Manager to deny the Sign Permit application for Clear Channel Outdoor, Inc. to install LED sign faces on existing sign located at 70 Powers Ferry Road, Marietta, GA.*

**A motion was made by Council member King, seconded by Council member**

**Walquist, that this matter be approved. The motion carried by the following vote:**

**Vote: 7 – 0 – 0**

**Approved**

**20080921 V2008-13 Burnt Hickory, LLC 900 Whitlock Avenue**

*c/a 3571*

Variance to waive the requirements of the Commercial Corridor Design Overlay District to increase the maximum setback along a street right of way from 75 feet to 90 feet along Whitlock Avenue and to 130 feet along Burnt Hickory Road [712.09]; and, a variance to reduce the number of parking spaces required on site based upon shared parking areas with the existing shopping center [716.07]. Ward 4.

*Mayor Dunaway opened the public hearing, seeing no opposition and with agreement of Council, the public hearing was closed.*

*Motion to waive the variance requirements of the Commercial Corridor Design Overlay District to increase the maximum setback along a street right of way from 75 feet to 90 feet along Whitlock Avenue and to 130 feet along Burnt Hickory Road [712.09]; and, a variance to reduce the number of parking spaces required on site based upon shared parking areas with the existing shopping center, with the stipulation that a portion of the right-of-way at the corner of Burnt Hickory Road and Whitlock Avenue be donated as approved by the Public Works Director.*

*The applicant agreed to the stipulation for the record.*

**A motion was made by Council member Pearlberg, seconded by Council member Chalfant, that this matter be Approved as Stipulated. The motion carried by the following vote:**

**Vote: 7 - 0 - 0**

**Approved as Stipulated**

**20080757 V2008-11 Islamic Circle of North America, Inc. 968 Powder Springs Street**

V2008-11 [SPECIAL LAND USE PERMIT] ISLAMIC CIRCLE OF NORTH AMERICA, INC. request a Special Land Use Permit for property located in Land Lot 00770, 17th District, Parcel 0152, 2nd Section of Cobb County, Marietta, Georgia and being located at 968 Powder Springs Street. Request for a Special Land Use Permit for a Place of Assembly. Ward 2.

**A motion was made by Council member Lewis, seconded by Council member Goldstein, to rescind agenda item 20080757. The motion carried by the following vote:**

**Vote: 4 - 3 - 0**

**Approved**

Voting Against: Grif Chalfant, Holly Walquist and Van Pearlberg

*Mayor Dunaway explained that the previous motion to table this matter until the September 10, 2008 Council meeting was on the floor.*

*Discussion was held. Council requested staff to provide additional information for review before the next meeting.*

*Motion to table this matter until the September 10, 2008 Council meeting.*

**The motion was made by Council member Goldstein, seconded by Council member King, that this matter be Tabled. The motion carried by the following vote:**

**Vote: 5 - 2 - 0**

**Tabled**

Vote Against: 2 - Grif Chalfant and Holly Walquist

## **20080986**

### **Motion for Defunding**

Whereas the City of Marietta (hereinafter "City") entered into a development and management agreement with the Marietta Redevelopment Corporation (hereinafter "MRC") dated July 28, 2006, and

Whereas said development and management agreement grants certain rights to the City,

Now therefore, comes the City of Marietta and exercises its rights under the agreement as follows:

1. Pursuant to section 5.7 of the above agreement, the City hereby takes action to withdraw unencumbered balances from the Fund and hereby deauthorizes the use of the Fund for real estate purposes.
2. Pursuant to section 6.8 of the agreement, the City hereby directs the MRC to transfer all unencumbered funds currently held by the MRC to the City.

*A motion was made by Council member Goldstein, seconded by Council member Coleman, to approve the Motion for Defunding as stated.*

*In depth discussion was held.*

*A motion was made by Council member Chalfant, seconded by Council member King, to call the question and end the debate. The motion failed by the following vote:*

*Vote: 4 - 2 - 1*

*Failed*

*Voting Against: Annette Lewis and Philip M. Goldstein*

*Abstaining: Rev. Anthony Coleman*

*A motion was made by Council member Goldstein to table this matter to the September 10, 2008 Council meeting.*

*Mayor Dunaway mentioned that he would be absent for the next meeting.*

*Council member Goldstein withdrew his motion.*

*Further discussion was held.*



*A motion was made to continue the current funding of the Marietta Redevelopment Corporation.*

**The motion was made by Council member Chalfant, seconded by Council member Walquist, that this matter be Approved as Amended. The motion carried by the following vote:**

**Vote: 4 - 1 - 2**

**Approved as Amended**

Vote Against: Philip M. Goldstein

Abstain: Rev. Anthony Coleman and Annette Lewis

**\* 20080948 National League of Cities (NLC)**

Motion to approve travel and training expenses for Mayor and Council members who wish to attend the National League of Cities (NLC) 2008 Congress of Cities and Exposition being held in Orlando, Florida November 11-15, 2008.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Jim King

**\* 20080949 NLC Congress of Cities Voting and Alternate Voting Delegates**

Appointment of Holly Walquist as voting and Annette Lewis as alternate voting delegates for the National League of Cities (NLC) Congress of Cities' Annual Business Meeting on Saturday, November 15, 2008.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**\* 20080954 NLC Council on Youth, Education, and Families**

Motion to approve travel expenses for Council member Annette Lewis to attend the NLC's Council on Youth, Education, and Families (YEF Council) being held in Charleston, SC on September 25-26, 2008.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Jim King

**\* 20080982 Amend City Ordinance 10-4-122**

*Ord 7214*

Approval to amend City Ordinance 10-4-122 Operation of go-carts or other similar vehicles on public roadways, public parks, cemetery, public schools or public property prohibited, to include an exemption for city vehicles operated by city employees for official business.

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0****Approved****\* 20080991 Property Condemnation-317 N. Fairground Street**

Motion to authorize the acquisition of property owned by Ms. Jessie Edward Wheatcroft on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.****Vote: 6 - 1 - 0****Approved**

Vote Against: Van Pearlberg

**\* 20080992 Property Condemnation - 327 N. Fairground**

Motion to authorize the acquisition of property owned by Mr. Marc Jones on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.****Vote: 6 - 1 - 0****Approved**

Vote Against: Van Pearlberg

**\* 20080993 Property Condemnation - 383 N. Fairground**

Motion to authorize the acquisition of property owned by Mr. Melvin C. Holton on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.****Vote: 6 - 1 - 0****Approved**

Vote Against: Van Pearlberg

\*      **20080994      Property Condemnation - 415 N. Fairground**

Motion to authorize the acquisition of property owned by Mr. Marc Jones on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

\*      **20080995      Property Condemnation - 513 Ramona Street**

Motion to authorize the acquisition of property owned by Mickey King on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

\*      **20080996      Property Condemnation - 559 Fairground Street**

Motion to authorize the acquisition of property owned by 559 Fairground LLC on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

\*      **20080997      Property Condemnation - 591-593 Frasier Street**

Motion to authorize the acquisition of property owned by Mr. Robert Winch on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

\*      **20080998      Property Condemnation - 390 Roswell Street**

Motion to authorize the acquisition of property owned by Corn Enterprises, Inc. on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

\*      **20080999      Property Condemnation - 416 Roswell Street**

Motion to authorize the acquisition of property owned by Louis Tuchiarelli on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

\*      **20081001      Property Condemnation - 507 Roswell Street**

Motion to authorize the acquisition of property owned by Four Star Ventures, LLC on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

\*      **20081002      Property Condemnation - 515 Roswell Street**

Motion to authorize the acquisition of property owned by 515 Roswell St., LLC on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

\*      **20081003      Property Condemnation - 533 Roswell Street**

Motion to authorize the acquisition of property owned by VC Properties LLC on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

\*        **20081004        Property Condemnation - 547 Roswell Street**

Motion to authorize the acquisition of property owned by Masonic Temple on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

\*        **20081005        Property Condemnation - 574 Roswell Street**

Motion to authorize the acquisition of property owned by United Food and Gas Inc. on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

\*        **20081006        Property Condemnation - 602 Roswell Street**

Motion to authorize the acquisition of property owned by Wachovia Bank, N.A. on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

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\*      **20081007      Property Condemnation - 251 Roswell Street**

Motion to authorize the acquisition of property owned by W. A. Spinks on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

\*      **20081008      Property Condemnation - 1010 Roswell Street**

Motion to authorize the acquisition of property owned by Four Star RTO, LLC on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

\*      **20081009      Property Condemnation 244 Roswell Street**

Motion to authorize the acquisition of property owned by 244 Roswell Street Condominium Association, Inc. on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 1 - 0**

**Approved**

Vote Against: Van Pearlberg

- \*      **20080978      BLW Actions of August 11, 2008**  
Review and approval of the August 11, 2008 actions and minutes of the Marietta Board of Lights and Water Works (BLW).

**This Matter was Approved on the Consent Agenda.**

**Vote: 7 - 0 - 0**

**Approved**

**ADJOURNMENT:**

*The meeting was adjourned at 9:50 p.m.*

**Date Approved: September 10, 2008**

\_\_\_\_\_  
**William B. Dunaway, Mayor**

**Attest:** \_\_\_\_\_  
**Stephanie Guy, City Clerk**